

Decision \_\_\_\_\_

**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**

Application of Pacific Gas and Electric Company for Adoption of its 2003 Energy Resource Recovery Account (ERRA) Revenue Requirement Estimate, its ERRA Trigger Mechanism Proposal, and its ERRA Trigger Amount. (U 39 E).

Application 03-02-002  
(Filed February 3, 2003)

**OPINION REGARDING THE 2003 ENERGY RESOURCE RECOVERY  
ACCOUNT FORECAST AND RELATED ISSUES****Summary**

On February 3, 2003, Pacific Gas and Electric Company (PG&E) filed its application for the adoption of its 2003 Energy Resource Recovery Account (ERRA) revenue requirement forecast, and its ERRA trigger amount. A stipulation between PG&E and the Office of Ratepayer Advocates (ORA) was subsequently entered into wherein they agreed to a 2003 ERRA revenue requirement of \$1.373 billion, and an ERRA trigger amount of \$223.5 million.

Today's decision grants the motion to adopt the stipulation, and approves the stipulation. The decision also adopts the other forecasts of PG&E, which are inputs into the calculation of the ERRA revenue requirement. As a result, the 2003 ERRA revenue requirement for PG&E is \$1.373 billion. The ERRA trigger amount shall be set at \$223.5 million.

**Background**

PG&E's ERRA application was filed in response to the Commission's directives in Decision (D.) 02-10-062 and D.02-12-074. (See D.02-10-062, p. 62; D.02-12-074, p. 42.) In addition to PG&E's application, PG&E provided both redacted and unredacted versions of its testimony in support of the application.<sup>1</sup>

ORA filed a protest to PG&E's ERRA application on March 6, 2003. ORA's protest questioned PG&E's proposed procurement level and the accuracy of PG&E's proposed trigger level.

A prehearing conference (PHC) was held on May 19, 2003, and PHC statements of PG&E and ORA were filed in advance of the PHC. At the PHC, PG&E and ORA narrowed their differences. The only issue that parties raised which might require a hearing was the calculation of the Competition Transition Charge (CTC) element for the direct access cost responsibility surcharge.

Following the PHC, two events occurred which affected the scope of this proceeding. First, in D.03-07-030, we ordered that for 2001-2002 and 2003, the calculation of the CTC element for the direct access cost responsibility surcharge be finalized in a separate phase of Rulemaking (R.) 02-01-011. For subsequent years beginning with 2004, the calculation of the CTC element is to occur in the ERRA proceedings. (See D.03-07-030, pp. 12-13, 106, OPs. 17 and 18.)

Second, on August 15, 2003, PG&E and ORA signed a "Stipulation Between Pacific Gas and Electric Company and the Office of Ratepayer Advocates Regarding PG&E's 2003 ERRA Revenue Requirement Estimate, Trigger Mechanism, and Trigger Amount." That same day, PG&E and ORA

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<sup>1</sup> The unredacted testimony was filed under seal in accordance with the April 16, 2003 ruling of the assigned administrative law judge (ALJ).

filed a motion pursuant to Rule 51.1 of the Commission's Rules of Practice and Procedure to have the Commission adopt the stipulation, and a motion to file the unredacted stipulation under seal. No one filed any responses to the motions.

On September 19, 2003, the scoping memo and ruling for this proceeding was issued. The scoping memo and ruling identified the issues to be addressed in this proceeding, determined that no evidentiary hearings were needed, and that a decision would be drafted for our consideration.

### **Description of the Stipulation**

On August 15, 2003, PG&E and ORA filed a motion to have the Commission adopt the stipulation, and a separate motion to file the unredacted stipulation under seal. A redacted version of the stipulation was attached to the motion to adopt the stipulation, and the unredacted stipulation was attached to the motion to file the unredacted stipulation under seal. The only difference between the unredacted and redacted versions of the stipulation is that the unredacted stipulation identifies an amount in megawatts for the confidential hedging amounts. In the September 19, 2003 scoping memo and ruling, the motion to file the unredacted stipulation under seal was granted.

The stipulation contains the following seven provisions:

1. PG&E agrees to remove the confidential hedging amounts (\_\_\_MW) identified by ORA from its 2003 ERRA forecast and related revenue requirement in exchange for ORA's agreement to support PG&E at the Procurement Review Group in the event that circumstances require PG&E to make such purchases during the summer of 2003.
2. PG&E agrees to include both its 2004 ERRA forecast and its ERRA reasonableness showing for the first 5 months of 2003

in its August 1 ERRA filing, with the goal of getting a final decision establishing PG&E's 2004 ERRA revenue requirement by January 1, 2004.<sup>2</sup> PG&E will file future ERRA forecast applications on August 1 of the year preceding the test year, again with the goal of getting a final decision establishing the annual ERRA revenue requirement by January 1 of the test year. ORA and PG&E agree to work together on a filing schedule for ERRA reasonableness showings for 2005 and other future reasonableness ERRA filings.

3. On February 1 of each year, PG&E will file an advice letter to establish the ERRA trigger for the year in question based on the previous year's recorded generation revenues. Pending Commission approval of the February 1 advice letter, the previous year's trigger amount will remain in effect.
4. Consistent with D.03-07-030, PG&E will include its 2004 ongoing CTC showing in its August 1 ERRA filing, again with the expectation of having a final decision on this issue before January 1 of the test year. Also consistent with D.03-07-030, PG&E's 2003 ongoing CTC will be decided in a future phase of R.02-01-011.
5. ORA agrees that the proposed trigger mechanism and trigger amount included in PG&E's 2003 ERRA application are reasonable and should be adopted.
6. PG&E agrees that, after the Commission issues a final decision adopting this Stipulation, it will submit to the Energy Division restated monthly ERRA reports for 2003 and revised tariff sheets to its Preliminary Statement CP – Energy Resource Recovery Account (ERRA) incorporating the 2003 ERRA revenue requirement agreed to herein.

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<sup>2</sup> PG&E's 2004 ERRA forecast, and the ERRA reasonableness showing for the first five months of 2003 was filed with the Commission on August 1, 2003 in Application (A.) 03-08-004.

7. PG&E and ORA agree that, while the issue of PG&E's fuel inventory carrying costs has been resolved in a pending Settlement Agreement in PG&E's 2003 General Rate Case (A.02-11-017), ORA reserves its right to raise the issue of PG&E's fuel inventory carrying costs in future ERRA proceedings once the Settlement Agreement has expired by its terms.

As a result of the stipulation whereby PG&E agrees to remove the confidential hedging amounts from its 2003 ERRA forecast and related revenue requirement, PG&E's 2003 ERRA revenue requirement is now \$1.373 billion instead of \$1.413 billion.<sup>3</sup>

In the motion to adopt the stipulation, PG&E and ORA assert that the stipulation meets the Commission's criteria for approval.

PG&E and ORA request, pursuant to Rule 77.7(f), that the Commission waive the comment period on the draft decision in the event the stipulation is uncontested and the Commission issues a draft decision adopting the relief requested.

## **Discussion**

### **Introduction**

The ERRA is a balancing account that was established in D.02-10-062 to recover PG&E's procurement plan power costs, excluding the costs associated with the California Department of Water Resources (DWR) power contracts.

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<sup>3</sup> In a letter dated September 19, 2003 from PG&E's counsel to the ALJ, PG&E and ORA clarified that the hedging amount to be removed from PG&E's 2003 ERRA forecast is to remain confidential, but the related revenue requirement reduction is not confidential. Thus, the letter stated that the "removal of the confidential hedging amount from PG&E's 2003 ERRA forecast would reduce PG&E's 2003 ERRA revenue requirement by \$40 million, from \$1.413 billion to \$1.373 billion."

(D.02-10-062, pp. 59-62, 69, FOF 23.) The purpose of the ERRA is to track the difference between the authorized ERRA revenue requirement and the actual power costs.

PG&E's 2003 ERRA revenue requirement is based on the various forecasts contained in Chapters 2 to 6 of its testimony supporting its application. PG&E's testimony contains its forecasted load, the forecast of resources it plans to use to meet its load, the forecast of fuel costs for its retained generation, the forecast of the cost of power and related services that are procured from Qualifying Facilities (QF) and power purchase agreements (PPA) entered into before December 20, 1995, the forecast of the cost of power and related services procured after December 20, 1995, and the forecast of the 2003 ERRA revenue requirement. Chapter 7 of PG&E's testimony describes the methodology used to determine the ERRA trigger amount, and the 2003 ERRA trigger amount.

PG&E's ERRA application requests that we approve PG&E's 2003 ERRA revenue requirement estimate of \$1.413 billion, which due to the stipulation, is now \$1.373 billion. This is a reduction from the \$2.035 billion that PG&E had recommended be used as the starting point for the 2003 ERRA revenue requirement, which we adopted in D.02-12-074. The revenue requirement of \$1.413 billion is lower than the starting point revenue requirement because the ongoing CTC were not included in PG&E's 2003 ERRA application forecast, as directed in D.02-12-074. (See D.02-12-074, pp. 45-46.)

The origin of the ERRA balancing account can be traced to R.01-10-024, Assembly Bill (AB) 57 and Senate Bill (SB) 1976. The Rulemaking was initiated to establish ratemaking mechanisms to enable the electric utilities to resume the procurement of electric energy to fulfill their obligation to serve and meet the

needs of their customers. The utilities' procurement plans were filed with the Commission on May 1, 2002 in R.01-10-024.<sup>4</sup>

AB 57 and SB 1976 contain provisions regarding the procurement of electricity by the electric utilities, review of the utilities' procurement plans by the Commission, and timely recovery of the utilities' procurement costs. These provisions were incorporated into Pub. Util. Code § 454.5,<sup>5</sup> and became effective on September 24, 2002. (Stats. 2002, ch. 835; Stats. 2002, ch. 850.) In particular, § 454.5(d)(3) provides that an approved procurement plan should:

“Ensure timely recovery of prospective procurement costs incurred pursuant to an approved procurement plan. The commission shall establish rates based on forecasts of procurement costs adopted by the commission, actual procurement costs incurred, or combination thereof, as determined by the commission. The commission shall establish power procurement balancing accounts to track the differences between recorded revenues and costs incurred pursuant to an approved procurement plan. The commission shall review the power procurement balancing accounts, not less than semiannually, and shall adjust rates or order refunds, as necessary, to promptly amortize a balancing account, according to a schedule determined by the commission. Until January 1, 2006, the commission shall ensure that any overcollection or undercollection in the power procurement balancing account does not exceed 5 percent of the electrical corporation's actual recorded generation revenues for the prior calendar year excluding revenues collected for the Department of Water Resources. The

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<sup>4</sup> The utilities' procurement plans were adopted in D.02-10-062 with certain modifications. D.02-10-062 directed the utilities to file modified short-term procurement plans for 2003, which were approved in D.02-12-074.

<sup>5</sup> All code section references are to the Public Utilities Code.

commission shall determine the schedule for amortizing the overcollection or undercollection in the balancing account to ensure that the 5 percent threshold is not exceeded. After January 1, 2006, this adjustment shall occur when deemed appropriate by the commission consistent with the objectives of this section.”

### **The ERRA Forecasts**

The inputs used to derive PG&E’s 2003 ERRA revenue requirement forecast are PG&E’s load forecast, the forecast of resources to meet PG&E’s load, and the costs of the various resources.

PG&E requests that the Commission adopt PG&E’s load and resource forecasts, for use in developing the 2003 ERRA forecast revenue requirement. The specific details concerning PG&E’s load and resources are set forth in Chapter 2 of PG&E’s testimony in support of the application, and the forecasts of load and resources are contained in Tables 2-1 and 2-2 of that testimony.<sup>6</sup> PG&E’s load includes sales to retail customers, pre-existing wholesale obligations, transmission and distribution losses, and allowances for unaccounted for energy. The resources that PG&E plans to use to meet its load include its retained generation, wholesale purchases made prior to December 20, 1995, additional purchases made after December 20, 1995, DWR’s contracts allocated by the Commission to PG&E’s customers, and residual market transactions made or planned to be made during 2003.

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<sup>6</sup> Certain numbers, including the forecasts, appear only in the unredacted testimony.



The fuel costs associated with the resources that PG&E plans to use to meet its load is another factor used in deriving the 2003 ERRA revenue requirement forecast.

For PG&E's retained generation assets, PG&E estimates its 2003 fuel costs at \$133,299,000. Of this amount, \$41,503,000 is for fossil fuel costs, \$90,015,000 for nuclear fuel costs, and \$1,781,000 for hydroelectric costs. PG&E requests that the Commission adopt the forecasts of PG&E's fuel costs as set forth in Chapter 3 and Table 3-3 of PG&E's testimony in support of its application.

As part of the stipulation, PG&E and ORA acknowledge that the issue of PG&E's fuel inventory carrying costs has been resolved in a pending settlement agreement in PG&E's 2003 General Rate Case (GRC), A.02-11-017. The stipulation also states that ORA reserves its right to raise the issue of PG&E's fuel inventory carrying costs in future ERRA proceedings once the settlement agreement in the GRC has expired.

PG&E estimates the 2003 costs associated with the power and related services that were procured under QF and PPA existing prior to December 20, 1995, at \$1.634 billion.<sup>7</sup> The estimate of these costs appears in Table 4-1 of PG&E's testimony. PG&E requests that the Commission adopt the forecasts of

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<sup>7</sup> In D.02-11-022, we stated that the portion of these costs above a market benchmark of 4.3 cents per kilowatt-hour would be recovered through an ongoing CTC, and the portion of these costs up to and including the 4.3 cents per kWh benchmark will be recovered through the ERRA. PG&E proposes to record the above-market costs in the Transition Revenue Account (TRA) until the Commission issues a final decision addressing all aspects of the required ratemaking for bundled and direct access customers in R.02-01-011.

the QF and PPA costs contained in Table 4-1. PG&E also requests that the Commission authorize it to use those forecasts to calculate the above-market portion of QF and PPA costs that will be recorded in the TRA until the Commission issues a final decision addressing all aspects of the required ratemaking for bundled and direct access customers in R.02-01-011.

PG&E's forecast of the costs for new power and related services procured after December 20, 1995 is estimated at \$298,731,000. The forecasts of these costs are described in Chapter 5 of PG&E's testimony, and summarized in Table 5-3 of that testimony. PG&E requests that the Commission adopt the 2003 forecast costs for new purchase power costs, as shown in Table 5-3, to derive its forecast of the 2003 ERRA revenue requirement.

Table 6-1 lists the various amounts that comprise the 2003 ERRA revenue requirement forecast of \$1,412,563,000 or \$1.413 billion. Table 6-2<sup>8</sup> of PG&E's testimony contains the monthly revenue requirements which correspond to PG&E's 2003 ERRA revenue requirement forecast of \$1.413 billion. Due to the stipulation, the 2003 ERRA revenue requirement that PG&E and ORA have agreed to is now \$1.373 billion. According to the stipulation, PG&E will submit to the Energy Division restated monthly ERRA reports for 2003, and revised tariff sheets to its "Preliminary Statement CP – Energy Resource Recovery Account," which incorporate the 2003 ERRA revenue requirement agreed to by PG&E and ORA.

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<sup>8</sup> The unredacted version of Table 6-2 contains the monthly figures for "Total New Power Purchase Costs" and "Total ERRA Monthly Revenue Requirement." The redacted version of Table 6-2 does not contain this information.

In order to derive the 2003 ERRA revenue requirement, the calculation of the revenue requirement forecast has to take into account the above-market portion of the QF and PPA expenses, which are eligible for ongoing CTC treatment as provided for in D.02-11-022. The total estimated QF and PPA costs in 2003 are \$1.634 billion. PG&E forecasts the ERRA-recoverable portion of QF and PPA costs to be \$980.5 million. The above-market portion of the QF and PPA costs of \$777.8 million, as well as the revenues of approximately \$122 million from the Western Area Power Authority and East Bay Municipal Utility District, will be recorded in the TRA.

PG&E requests that the Commission adopt PG&E's 2003 ERRA revenue requirement of \$1.413 billion (\$1.373 billion as adjusted by the stipulation), and the corresponding monthly ERRA revenue requirements presented in Table 6-2. As noted earlier, the monthly ERRA revenue requirements will require adjustment, as agreed to in the stipulation, due to the removal of the confidential hedging amounts.

The stipulation entered into between PG&E and ORA resolves the primary issues in this proceeding, i.e., the 2003 ERRA revenue requirement and the trigger amount for 2003. However, the stipulation does not address the various forecasts that PG&E requests approval of, which are inputs into how the 2003 ERRA revenue requirement is calculated. Thus, before addressing whether the stipulated 2003 ERRA revenue requirement should be adopted, we turn first to the forecasts of load, the forecast of resources to meet the load, and the forecast of the costs to meet the load.

Except for the stipulation that the confidential hedging amounts will be removed from the 2003 ERRA revenue requirement forecast, no one has challenged PG&E's forecasts of its 2003 load, the resources needed to meet the

load, the costs of the resources to meet the load, and how the revenue requirement is calculated. We have reviewed these various forecasts, and the manner in which the forecasts were derived. We adopt PG&E's forecast of load as it appears in the unredacted Table 2-1 and Table 2-2 of PG&E's testimony in support of its application. We adopt PG&E's forecast of the resources needed to meet PG&E's forecasted load as shown in unredacted Table 2-1 and unredacted Table 2-2. However, the hedging amounts identified by ORA, which PG&E has agreed to remove, will have the effect of reducing PG&E's forecast of resources and lower the 2003 ERRA revenue requirement from \$1.413 billion to \$1.373 billion. Pursuant to the stipulation, PG&E will submit restated monthly ERRA reports for 2003 which incorporate the stipulated revenue requirement. We also adopt PG&E's forecast of its fuel costs as set forth in Table 3-3 of PG&E's testimony, and PG&E's forecasts of costs as they appear in Table 4-1 and unredacted Table 5-3.

We turn now to PG&E's 2003 ERRA revenue requirement forecast. As adjusted by the removal of the hedging amounts pursuant to the stipulation, the 2003 ERRA revenue requirement forecast is now \$1.373 billion. In exchange for PG&E's agreement to remove the hedging amounts from its forecast, ORA agrees to support PG&E at the Procurement Review Group in the event that PG&E needs to make these kinds of purchases. The stipulated 2003 ERRA revenue requirement of \$1.373 billion, and the associated monthly revenue requirements, represent a reasonable compromise of the positions of PG&E and ORA. The adjusted revenue requirement forecast is also substantially less than the \$2.035 billion revenue requirement that PG&E had recommended be used as the starting point, which we adopted in D.02-12-074. Accordingly, we adopt the

amount of \$1.373 billion as PG&E's 2003 ERRR revenue requirement, and the monthly ERRR revenue requirements which correspond to this amount.

PG&E also requests that we adopt PG&E's proposed treatment of the above-market portion of the QF and PPA costs. We adopt PG&E's proposal to record the above-market portion of the QF and PPA costs in the TRA until such time a decision addressing all aspects of the required ratemaking for bundled and direct access customers is issued in R.02-01-011.

### **Trigger Methodology and Trigger Amount**

PG&E's ERRR application proposes that the "trigger amount" be set at \$223.5 million. The trigger amount relates to the requirement in § 454.5(d)(3) that provides for a rate adjustment when the power procurement balancing account is overcollected or undercollected by five percent of the electrical corporation's actual recorded generation revenues for the prior calendar year.

In PG&E's 2003 Procurement Plan filing, PG&E used a five percent threshold amount of \$150 million. This figure was based on five percent of the adopted utility retained generation 2002 revenue requirement of \$3.012 billion.

D.02-12-074 authorized "PG&E to file [an] expedited trigger application at any time that its forecasts indicate it will face an undercollection in excess of the 5% threshold." (D.02-12-074, pp. 41, 69, COL 23.) We also provided PG&E with additional guidance on how to determine the five percent threshold amount by directing PG&E to calculate its trigger amount using emergency surcharge revenues. We estimated that the recalculated five percent threshold amount to be about \$300 million. (D.02-12-074, pp. 39-40.)

Using a methodology which includes emergency surcharge revenues, PG&E's five percent trigger amount is approximately \$223.5 million. That number was derived by using the following methodology:

“[F]irst, PG&E calculates total calendar year accrued generation revenues for 2002 by adding the monthly residual generation revenue shown in the Transition Revenue Account (TRA) portion of PG&E’s Transition Cost Balancing Account (TCBA) Report, as submitted to the Commission on a monthly basis, adjusting that amount by prior period adjustments on the same report, and adding in the revenues from the one-cent surcharge that were recorded on a monthly basis to the Emergency Procurement Surcharge Balancing Account (EPSBA) during 2002. Revenues from the three cents surcharge were already recorded to the TRA and are already incorporated in the residual generation amount presented in the monthly TCBA report which includes the TRA.

“Second, PG&E subtracts the 2002 amounts remitted in accordance with the Servicing Order adopted in Decision 02-05-048 to Department of Water Resources (DWR) from the total generation revenues calculated in step one. The third step in calculating the trigger amount is to multiply the result of step two (total generation revenues less revenues collected for DWR) by 5 percent, yielding a PG&E trigger amount for 2003 of \$223.5 million.” (PG&E Testimony, pp. 7-2 to 7-3.)

PG&E requests that the Commission adopt the methodology used by PG&E to determine the maximum level of undercollection that can accrue in the ERRRA. PG&E also requests that the Commission adopt \$223.5 million as the 2003 trigger amount. As part of the stipulation, ORA agrees that the trigger mechanism and trigger amount are reasonable and should be adopted.

We adopt as reasonable the trigger mechanism that PG&E used, and the 2003 trigger amount of \$223.5 million. The trigger mechanism and the resulting trigger amount are also consistent with our directive in D.02-12-074 to include the emergency surcharge revenues in the calculation of the trigger amount, and the requirements set forth in § 454.5(d)(3).

**Future Filings**

The stipulation agreed to between PG&E and ORA contains three provisions which affect the ERRA filings.

First, PG&E agreed to include both its 2004 ERRA forecast and its ERRA reasonableness showing for the first five months of 2003 in its August 1, 2003 ERRA filing, with the goal of getting a final decision establishing PG&E's 2004 ERRA revenue requirement by January 1, 2004. This application was filed on August 1, 2003 in A.03-08-004. The stipulation also contains PG&E's agreement that it will file future ERRA forecast applications on August 1 of the year preceding the test year, with the goal of getting a final decision establishing the annual ERRA revenue requirement by January 1 of the test year. The stipulation also provides that ORA and PG&E agree to work together on a filing schedule for the ERRA reasonableness showings for 2005 and other future reasonableness ERRA filings.<sup>9</sup>

The second provision of the stipulation which affects future ERRA filings is PG&E's agreement that on February 1 of each year, PG&E will file an advice letter to establish the ERRA trigger amount for the year in question, based on the previous year's recorded generation revenues. Pending the Commission's approval of the February 1 advice letter, the previous year's trigger amount is to remain in effect.

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<sup>9</sup> The stipulation refers to "reasonableness" showings and filings. However, § 454.5(d)(2) contemplates that instead of "after-the-fact reasonableness reviews," the Commission "may establish a regulatory process to verify and assure that each contract was administered in accordance with the terms of the contract, and contract disputes which may arise are reasonably resolved." Such a process was established in D.02-10-062 at page 62, as modified by D.02-12-074 at pages 42 and 73.

The third provision of the stipulation which affects the ERRA filings is PG&E's agreement to include its 2004 ongoing CTC showing in its August 1 ERRA filing, with the expectation of having a final decision on this issue before January 1 of the test year. PG&E and ORA also agree that PG&E's 2003 ongoing CTC will be decided in a future phase of R.02-01-011 as provided in D.03-07-030.

The provision of the stipulation regarding the timing for filing the ERRA applications is in conflict with D.02-12-074. In D.02-12-074, we directed PG&E to file its ERRA forecast application on February 1 of each year, and the ERRA balancing account review application on August 1 of each year. (D.02-12-074, pp. 42, 73, OP 16.) In A.03-08-004, which PG&E filed on August 1, 2003, the application addressed not only the ERRA balancing account activities for January 1, 2003 through May 31, 2003, but also PG&E's 2004 ERRA revenue requirement forecast, and PG&E's 2004 CTC revenue requirement and proposed rate design. Under the schedule set forth in D.02-12-074, PG&E's 2004 ERRA forecast application should not be filed until February 1, 2004.

We are open to the idea of revising the schedule of when the ERRA forecast application and the ERRA balancing account review application should be filed.<sup>10</sup> However, the underlying decision and the proceeding in which that schedule was adopted must be the subject of a petition for modification, rather than trying to accomplish a change in schedule through the stipulation between PG&E and ORA in an entirely different proceeding. This procedural vehicle

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<sup>10</sup> We note that changing the filing dates to what PG&E and ORA have stipulated to may better meet the § 454.5(d)(3) objective of ensuring "timely recovery of prospective procurement costs incurred pursuant to an approved procurement plan." In addition, considering and adopting an ERRA revenue requirement forecast in advance of the start of the test year makes logical sense.



offers all parties interested in D.02-12-074 the requisite notice and opportunity to be heard on the issue of the proposed change. In anticipation that PG&E and ORA will seek to modify the schedule for the filing of the ERRA applications detailed in D.02-12-074, the provision of the stipulation addressing the filing schedule is still reasonable in light of the circumstances of adopting forecasts for 2003 and 2004 when the start of 2004 is nearly here. In addition, this provision of the stipulation is consistent with the objective of § 454.5(d)(3) of providing timely recovery of the procurement costs.

The provision of the stipulation which calls for an advice letter filing on February 1 of each year to establish the ERRA trigger amount for the year in question is also reasonable because it is based on the previous year's recorded generation revenues, and comes after the establishment of the 2003 trigger amount. The advice letter filing process appears to be an efficient process for reviewing the ERRA trigger amount. However, since the ERRA trigger was first addressed in D.02-10-062 and D.02-12-074, and applied to all three major electric utilities, PG&E and ORA should consider including this tariff filing process as part of its petition for modification of D.02-12-074 or D.02-10-062.

The provision of the stipulation in which PG&E agrees to include its ongoing 2004 CTC revenue requirement in its August 1, 2003 ERRA filing is reasonable because of our conclusion in D.03-07-030 that beginning with 2004, the "prospective determination of the CTC for each utility can be accommodated within the ERRA proceeding." (D.03-07-030, pp. 13, 106, OP 18.) Due to the need to calculate the CTC in a timely manner, as well as the forecast of the ERRA revenue requirement, PG&E and ORA may want to consider whether a filing date earlier than August 1 of each year is more appropriate.

**Motion to Adopt the Stipulation**

Rule 51.1(e) provides that the “Commission will not approve stipulations ..., whether contested or uncontested, unless the stipulation ... is reasonable in light of the whole record, consistent with law, and in the public interest.

As discussed above, we have reviewed the various agreements that PG&E and ORA have agreed to in the stipulation and found them to be reasonable in light of the record before us. No one filed any objections to the stipulation. In addition, the agreements between PG&E and ORA represent a reasonable compromise of their positions regarding the issues resolved by the stipulation.

The stipulation is also consistent with the provisions contained in § 454.5(d) regarding the review of past ERRRA activity and the timely recovery of power costs, and with D.03-07-030 regarding ongoing CTC costs. As noted earlier, due to the provision of the stipulation in which PG&E and ORA have agreed to change the filing dates of the ERRRA applications, PG&E and ORA will need to file a petition to modify the decision in which the filing schedule was adopted.

Approval of the August 15, 2003 stipulation between PG&E and ORA is in the public interest because it resolves the 2003 ERRRA revenue requirement forecast without the need for hearings, is lower than the starting point revenue requirement adopted in D.02-12-074, and establishes the trigger amount in the event of an overcollection or undercollection of the ERRRA revenue requirement.

For the reasons stated above, we grant the motion of PG&E and ORA to adopt the stipulation. The August 15, 2003 stipulation between PG&E and ORA is approved. As a result of our approval, the 2003 ERRRA revenue requirement for PG&E shall be \$1.373 billion, and the ERRRA trigger amount shall be \$223.5 million. PG&E is authorized to record the above-market portion of the QF

and PPA costs to the TRA until such time a decision addressing all aspects of the required ratemaking for bundled and direct access customers is issued in R.02-01-011.

**Request for Waiver of Comments on Draft Decision**

Pursuant to Rule 77.7(f)(2), PG&E and ORA request that the Commission reduce or waive the comment period on the draft decision so that the stipulation can go into effect as soon as possible.

The issues that the parties have raised have either been resolved in D.03-07-030 or addressed in the stipulation. No one has opposed the stipulation or requested hearings on any other issues in this proceeding. Since no one contests the stipulation or the other issues in this proceeding, and because this decision grants the relief requested, the request that comments on the draft decision be waived is granted.

**Assignment of Proceeding**

Michael R. Peevey is the Assigned Commissioner, and John S. Wong is the assigned ALJ in this proceeding.

**Findings of Fact**

1. PG&E's February 3, 2003 ERRA application filing was in response to the Commission's directives in D.02-10-062 and D.02-12-074.
2. On August 15, 2003, PG&E and ORA signed the stipulation, and filed a motion to adopt the stipulation, and a motion to file the unredacted stipulation under seal.
3. The September 19, 2003 scoping memo and ruling determined that no evidentiary hearings were needed and that a decision would be drafted for our consideration.
4. The stipulation contains seven provisions.

5. Due to the provision in the stipulation to remove the confidential hedging amounts from PG&E's 2003 ERRR forecast and related revenue requirement, the 2003 ERRR revenue requirement forecast is now \$1.373 billion.

6. In D.02-12-074, the amount of \$2.035 billion was adopted as the starting point for PG&E's 2003 ERRR revenue requirement.

7. The inputs used to derive PG&E's forecast of its 2003 ERRR revenue requirement are based on PG&E's load forecast, the forecast of resources to meet PG&E's load, and the costs of the various resources.

8. Table 6-1 in PG&E's testimony lists the various amounts that comprise the 2003 revenue requirement forecast of \$1.413 billion, and Table 6-2 contains the monthly revenue requirements which correspond to PG&E's 2003 ERRR revenue requirement forecast.

9. In order to derive the 2003 ERRR revenue requirement, the calculation has to take into account the above-market portion of the QF and PPA expenses, which are eligible for ongoing CTC treatment.

10. The monthly ERRR revenue requirements, as shown in Table 6-2, will require adjustment due to the removal of the confidential hedging amounts.

11. Although the stipulation resolves the 2003 ERRR revenue requirement and the trigger amount, it does not address the various forecasts which are inputs into the calculation of the 2003 ERRR revenue requirement.

12. The stipulated 2003 ERRR revenue requirement of \$1.373 billion, and the associated monthly revenue requirements, represent a reasonable compromise of the positions of PG&E and ORA.

13. The adjusted revenue requirement forecast is substantially less than the \$2.035 billion revenue requirement that was adopted in D.02-12-074 as a starting point.

14. The ERRA trigger amount relates to the requirement in § 454.5(d)(3) that provides for a rate adjustment when the power procurement balancing account is overcollected or undercollected by five percent of the electrical corporation's actual recorded generation revenues for the prior calendar year.

15. Using a methodology which includes emergency surcharge revenues, PG&E's five percent trigger amount is approximately \$223.5 million.

16. One of the provisions of the stipulation is that ORA agrees that the trigger mechanism and trigger amount are reasonable and should be adopted.

17. The trigger mechanism and the resulting trigger amount are consistent with the directive in D.02-12-074 to include the emergency surcharge revenues in the calculation of the trigger amount, and the requirements set forth in § 454.5(d)(3).

18. The stipulation contains three provisions which affect the ERRA filings.

19. The provision of the stipulation regarding the timing for filing the ERRA applications is in conflict with D.02-12-074 because in that decision PG&E was directed to file its ERRA forecast application on February 1 of each year, and the ERRA balancing account review application on August 1 of each year.

20. The provision of the stipulation addressing the filing schedule is still reasonable in light of the circumstances of adopting forecasts for 2003 and 2004 when the start of 2004 is nearly here, and is consistent with the objective of § 454.5(d)(3) of providing timely recovery of the procurement costs.

21. The provision of the stipulation which calls for an advice letter filing on February 1 of each year to establish the ERRA trigger amount for the year in question is reasonable because it is based on the previous year's recorded generation revenues, and comes after the establishment of the 2003 trigger amount.

22. The advice letter filing process filing appears to be an efficient process for reviewing the ERRA trigger amount.

23. The provision of the stipulation in which PG&E agrees to include its ongoing 2004 CTC revenue requirement in its August 1, 2003 ERRA filing is reasonable because of our conclusion in D.03-07-030 that the prospective determination of the CTC for each utility be accommodated within the ERRA proceeding.

### **Conclusions of Law**

1. The ERRA is a balancing account which tracks the difference between the authorized ERRA revenue requirement and actual power costs.

2. Section 454.5 addresses, among other things, the procurement of electricity by electric utilities, review of the utilities' procurement plans by the Commission, and timely recovery of the utilities' procurement costs.

3. PG&E's forecast of load should be adopted.

4. PG&E's forecast of the resources needed to meet its forecasted load, as adjusted by the hedging amounts, should be adopted.

5. PG&E's forecast of its fuel costs as set forth in Table 3-3 of its testimony, and its forecasts of costs as they appear in Table 4-1 and Table 5-3, should be adopted.

6. The amount of \$1.373 billion, and the corresponding monthly amounts, should be adopted as PG&E's 2003 ERRA revenue requirement.

7. PG&E's proposal to record the above-market portion of the QF and PPA costs to the TRA until a decision addressing all aspects of the required ratemaking for bundled and direct access customers is issued in R.02-01-011, should be adopted.

8. The trigger mechanism that PG&E used to develop its trigger amount, and the trigger amount of \$223.5 million, should be adopted.

9. Rather than trying to accomplish a change in the filing schedule through the stipulation, PG&E and ORA must seek to modify the underlying decision and the proceeding in which the schedule was adopted.

10. The August 15, 2003 stipulation between PG&E and ORA is reasonable in light of the record before us and represents a reasonable compromise of their positions regarding the issues resolved by the stipulation.

11. The August 15, 2003 stipulation is consistent with the law and in the public interest.

12. The August 15, 2003 motion of PG&E and ORA to adopt the stipulation should be granted, the stipulation should be approved, a 2003 ERRA revenue requirement of \$1.373 billion should be adopted, and an ERRA trigger amount of \$223.5 million should be adopted.

13. Since no one contests the stipulation or the other issues in this proceeding, and because the decision grants the relief requested, the request to waive the comment period on the draft decision is granted.

## **O R D E R**

### **IT IS ORDERED** that:

1. The forecasts of Pacific Gas and Electric Company (PG&E) regarding its load, the resources available to meet its load, fuel costs, and costs for the various resources, as adjusted by the removal of the hedging amounts, are adopted.

2. The trigger mechanism that PG&E used to develop the trigger amount is adopted.

3. Except for the requested change in the filing schedule, which requires a Petition for Modification of relevant underlying decisions, the August 15, 2003 motion of PG&E and the Office of Ratepayer Advocates to adopt the stipulation that they entered into, is granted, and the stipulation is approved.

4. PG&E's 2003 Energy Resource Recovery Account (ERRA) revenue requirement shall be \$1.373 billion.

5. PG&E's ERRA trigger amount shall be set at \$223.5 million until further adjustment as provided for in the stipulation.



6. PG&E is authorized to record the above-market portion of the costs of Qualifying Facilities and power purchase agreements to the Transition Revenue Account until such time the Commission issues a decision addressing all aspects of the required ratemaking for bundled and directed access customers in R.02-01-011.

7. This proceeding is closed.

This order is effective today.

Dated \_\_\_\_\_, at San Francisco, California.